

# International Human Rights Regimes

**IREn4004 International Law and Regimes**

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# Aims of the seminars

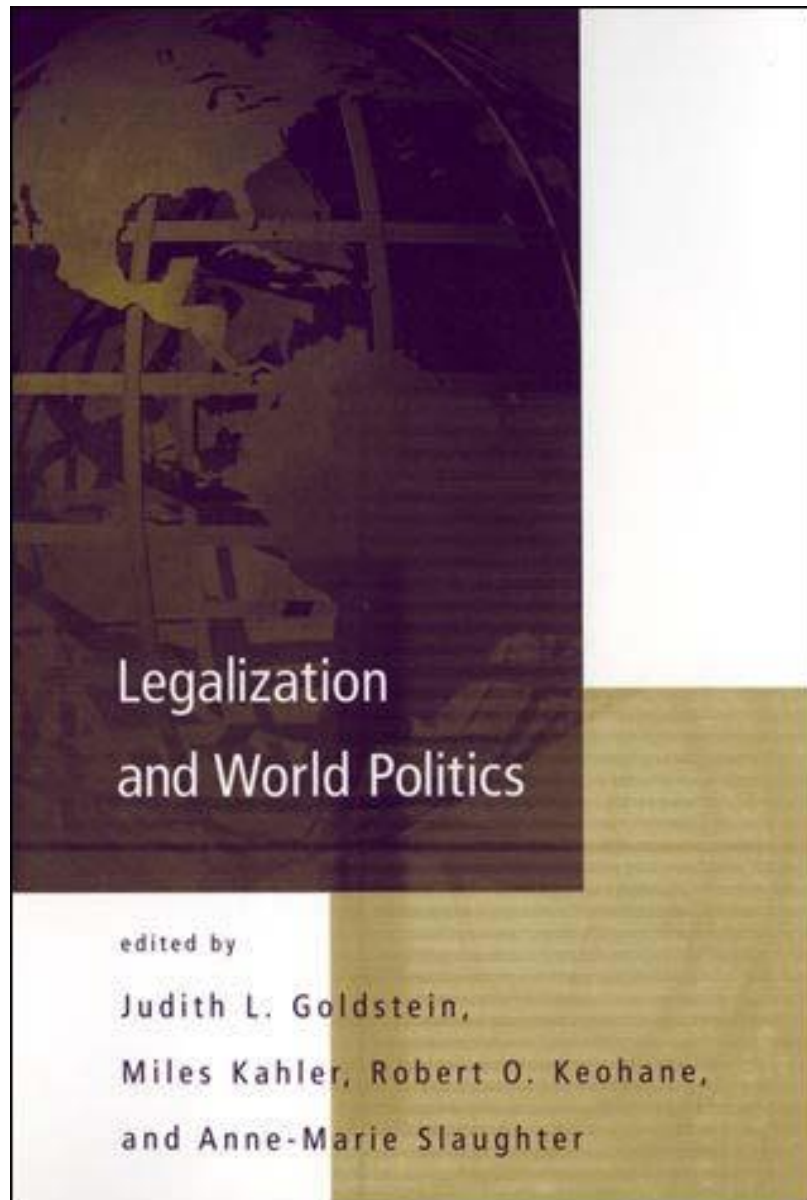
- Intro to HR
- Intro to IHR research
- Understanding uniqueness of IHR treaties
- Knowledge of major IHR regimes
- Discussion:
  - Why do states make IHR commitments?
  - What are the effects of IHR commitments?

## **REALIST VIEWS OF INTERNATIONAL LAW**

*by Stephen D. Krasner\**

International law is either what freely concluded treaties and agreements say it is, or is the result of widely accepted customary practice. International law not only defines specific obligations but also, for some, reflects normative aspirations that should govern relations among states. For many if not all lawyers there is an obligation to obey international law.

For political scientists this is an odd way of conceptualizing a set of agreements or practices for which there is no overarching authority capable of resolving conflicting interpretations of what the law means, and no neutral third party with the legitimate right to punish violators. For many years most political scientists who studied international politics regarded international law as an oxymoron. International law courses disappeared from the curriculum of many political science departments.



# European Journal of International Law

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Volume 25, Issue 3  
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## Article Contents

### Abstract

- 1 Introduction
- 2 Methodology
- 3 Common Questions
- 4 Empiricism and Evaluation:

## The Judicialization of International Law: Reflections on the Empirical Turn <sup>FREE</sup>

Karen J. Alter . *The New Terrain of International Law: Courts, Politics, Rights* .  
Princeton: Princeton University Press, 2014. Pp. xxiii + 450. £65.00. ISBN:  
9780691154749.

Cesare P.R. Romano , Karen J. Alter , Yuval Shany (eds).

*The Oxford Handbook of International Adjudication* . Oxford: Oxford University Pr  
2014. Pp. xcii + 975. £125.00. ISBN: 9780199660681.

Yuval Shany . *Assessing the Effectiveness of International Courts* . Oxford:  
Oxford University Press, 2014. Pp. xix + 322. £70.00. ISBN: 9780199643295.

[Gleider I. Hernández](#) ✉

Eur J Int Law (2014) 25 (3): 919-934. DOI: <https://doi.org/10.1093/ejil/chu066>

Published: 31 October 2014

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HR?

# HR expansion

- Media
- Subjects of rights
- Number of rights
- HR in IR

# Issues with HR

- Philosophical (foundation)
- Universalism and cultural relativism
- Generations of rights
- Subjects of rights

# A short historical excursion

## **First international HR efforts**

- Abolishing slavery
- Humanitarian law
- Protection of minorities

BUT: *19th century* – first international treaties touching on HR, but not dealing with the state – individual relationship

**Doctrine:** IHRL is not law, only states are subjects of law



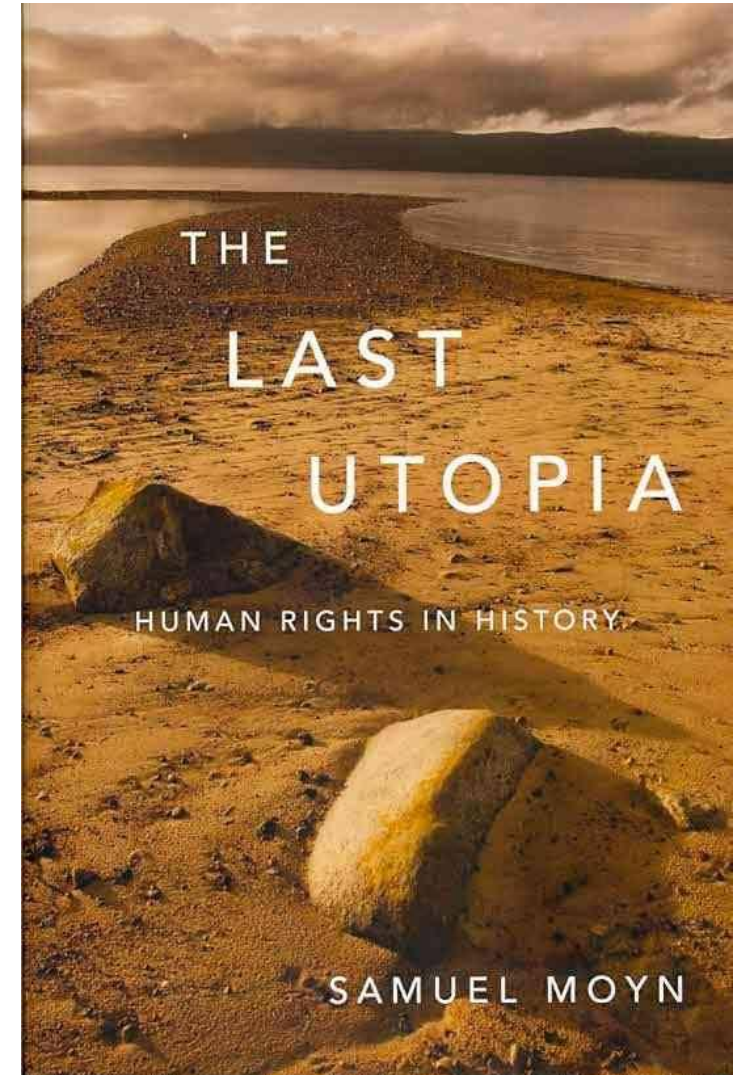
# Historical excursion

## Big trends after WW2

- Constitutions and bills of rights
- Constitutional courts
- Internationalization

## 1970s

- UN Covenants
- INGOs
- Carter (US FR)
- Helsinki process



# Turn in IL

Post WW2: IHR treaties against genocide, torture etc.

**Highlight:** Protocol 11 to ECHR (1998) – an individual can complain against a state at an international court (ECtHR). Parties to the ECHR let an international body to review their behavior.

THE AGE OF  
RIGHTS  
LOUIS HENKIN

Our age, is the age of rights  
(Henkin 1990, p. ix)

"If you are going to read  
only one book in preparation for  
the '90s—make it this one."  
—AMITAI ETZIONI

# RIGHTS TALK

The Impoverishment Of  
Political Discourse

**MARY ANN GLENDON**

# Turn in IL

## **ICTY – *Tadić***

*It would be a travesty of law and a betrayal of the universal need for justice, should the concept of State sovereignty be allowed to be raised successfully against human rights. Borders should not be considered as a shield against the reach of the law and as a protection for those who trample underfoot the most elementary rights of humanity.*

# IHR regimes

- **Level**

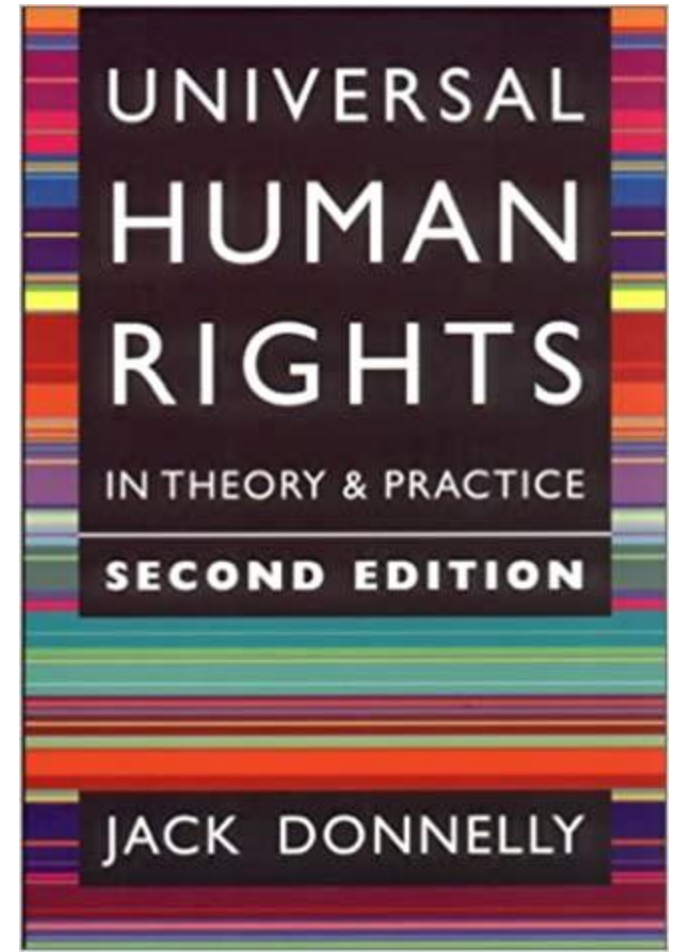
- Global
- Regional

- **Rights**

- General lists of rights
- Specific rights
- Specific right-holders

# International regimes

- IR = systems of norms and processes accepted by states as binding in specified areas
- Jack Donnelly – ACTIVITIES
  - **Enforcing** (binding decision-making + monitoring)
  - **Implementing** (monitoring + coordination)
  - **Promotional** (encouragement, assistance)



# IHR regimes

	National decisions	Promotion or assistance	Information exchange	Policy coordination	International monitoring	International decisions
International norms	Strong declaratory		Strong promotional		Strong implementation	Strong enforcement
International standards with national exemptions				Weak implementation		
International guidelines	Weak declaratory	Weak promotional				Weak enforcement
National standards	No regime					
	Declaratory regime	Promotional regime		Implementation regime		Enforcement regime

Figure 8.1 Types of International Regimes



# Regional HR regimes

TABLE 8.1 Change in International Human Rights Regimes, 1945–2000

	1945	1960	1975	1990	2000
<b>GLOBAL REGIME</b>	<b>NONE</b>	<b>DECLARATORY</b>	<b>PROMOTIONAL</b>	<b>STRONG PROMOTIONAL</b>	<b>STRONG PROMOTIONAL</b>
Norms	None	Guidelines	Standards with exemptions	Global norms with exemptions	Authoritative global norms
Procedures	None	Weak promotion	Promotion	Strong promotion/monitoring	Strong promotion/monitoring
<b>REGIONAL HUMAN RIGHTS REGIMES</b>					
<b>European Regime</b>	None	Promotional/ Implementation	Implementation/ Enforcement	Enforcement	Strong Enforcement
Norms	None	Guidelines/ regional norms	Regional norms	Authoritative regional norms	Authoritative regional norms
Procedures	None	Promotion/ monitoring	Regional decisions with exemptions	Regional decisions	Binding regional decisions
<b>Inter-American Regime</b>	None	Declaratory Guidelines	Promotional Standards with exemptions	Strong Promotional Regional norms	Strong Promotional Authoritative regional norms
Norms	None	None	Promotion/monitoring	Monitoring/very limited regional decisions	Monitoring/very limited regional decisions
Procedures	None	None	None	Declaratory Guidelines	Declaratory
<b>African Regime</b>	None	None	None	Weak promotion	Weak standards with exemptions
Norms	None	None	None	None	Weak promotion
Procedures	None	None	None	None	None
<b>Asia</b>	None	None	None	None	None
<b>Middle East</b>	None	None	None	None	None

# Thematic HR regimes

## SINGLE-ISSUE REGIMES

<b>Worker's Rights</b>	Promotional	Strong Promotional	Strong Promotional	Strong Promotional	Strong Promotional
Norms	Limited guidelines	Standards with exemptions	Strong standards with exemptions	Strong standards with exemptions	Strong standards with exemptions
Procedures	Promotion/monitoring	Promotion/monitoring	Promotion/monitoring	Promotion/monitoring	Promotion/monitoring
<b>Racial Discrimination</b>	None	None	Promotional	Strong Promotional	Strong Promotional
Norms	None	None	Standards with exemptions	Strong standards with exemptions	Strong standards with exemptions
Procedures	None	None	Promotion/weak monitoring	Promotion/weak monitoring	Promotion/weak monitoring
<b>Women's Rights</b>	None	None/Very Weak	Declaratory	Strong Promotional	Strong Promotional
Norms	None	Declaratory	Guidelines	Standards with exemptions	Standards with exemptions
Procedures	None	None/Limited guidelines	Weak promotion	Promotion/weak monitoring	Promotion/weak monitoring
<b>Torture</b>	None	None	Declaratory	Strong Promotional	Strong Promotional
Norms	None	None	Guidelines	Strong standards with exemptions	Global norms
Procedures	None	None	None	Promotion/monitoring	Promotion/monitoring
<b>Genocide</b>	None	Very Weak	Very Weak	Very Weak	Declaratory/Ad hoc Enforcement
Norms	None	Declaratory	Declaratory	Declaratory	Authoritative global norms
Procedures	None	Guidelines	Guidelines	Guidelines	None/Ad hoc Enforcement
<b>Children</b>	None	None	None	Declaratory/Promotional	Promotional
Norms	None	None	None	Guidelines	Standards with exemptions
Procedure	None	None	None	None	Promotion/weak monitoring

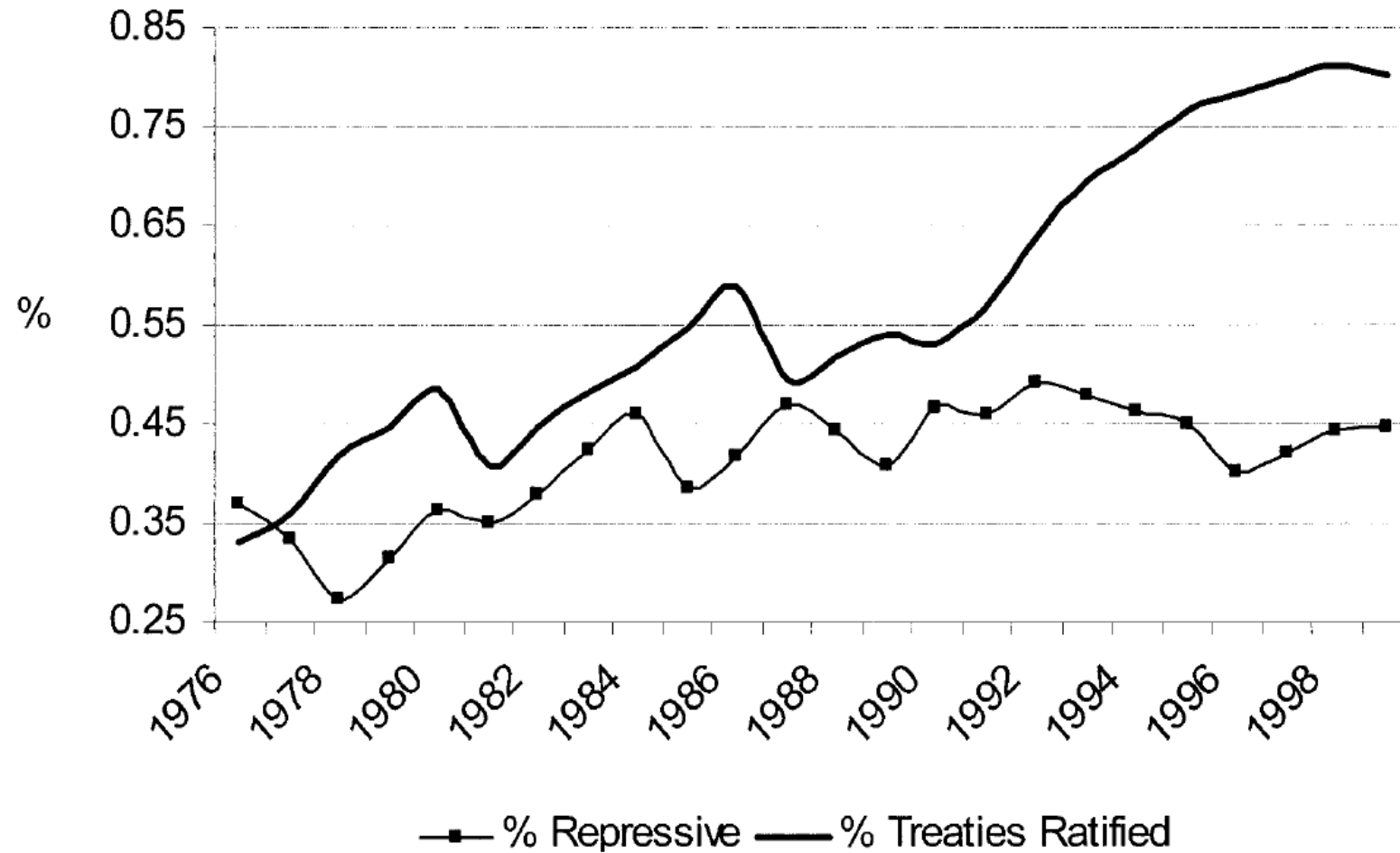
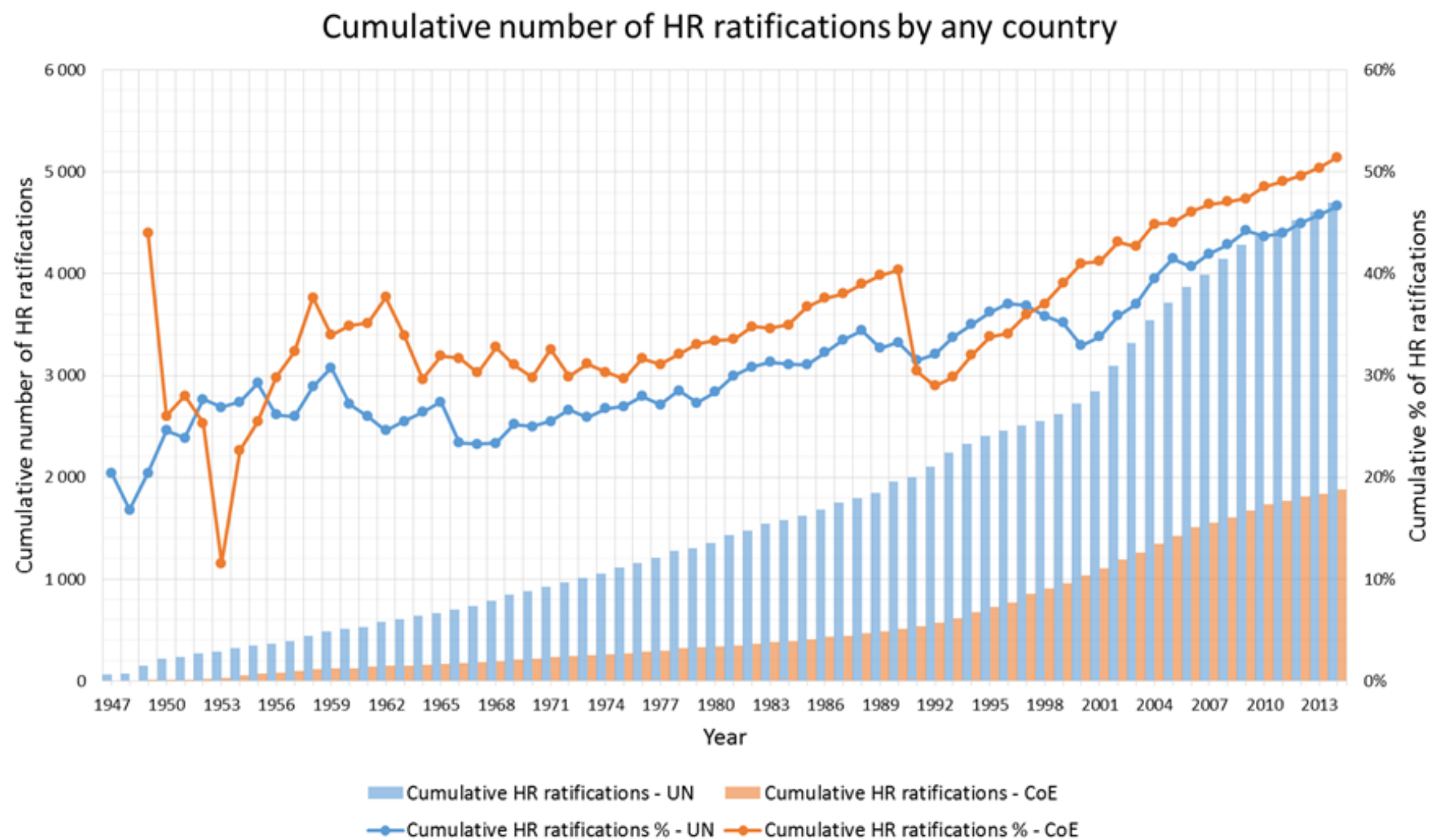
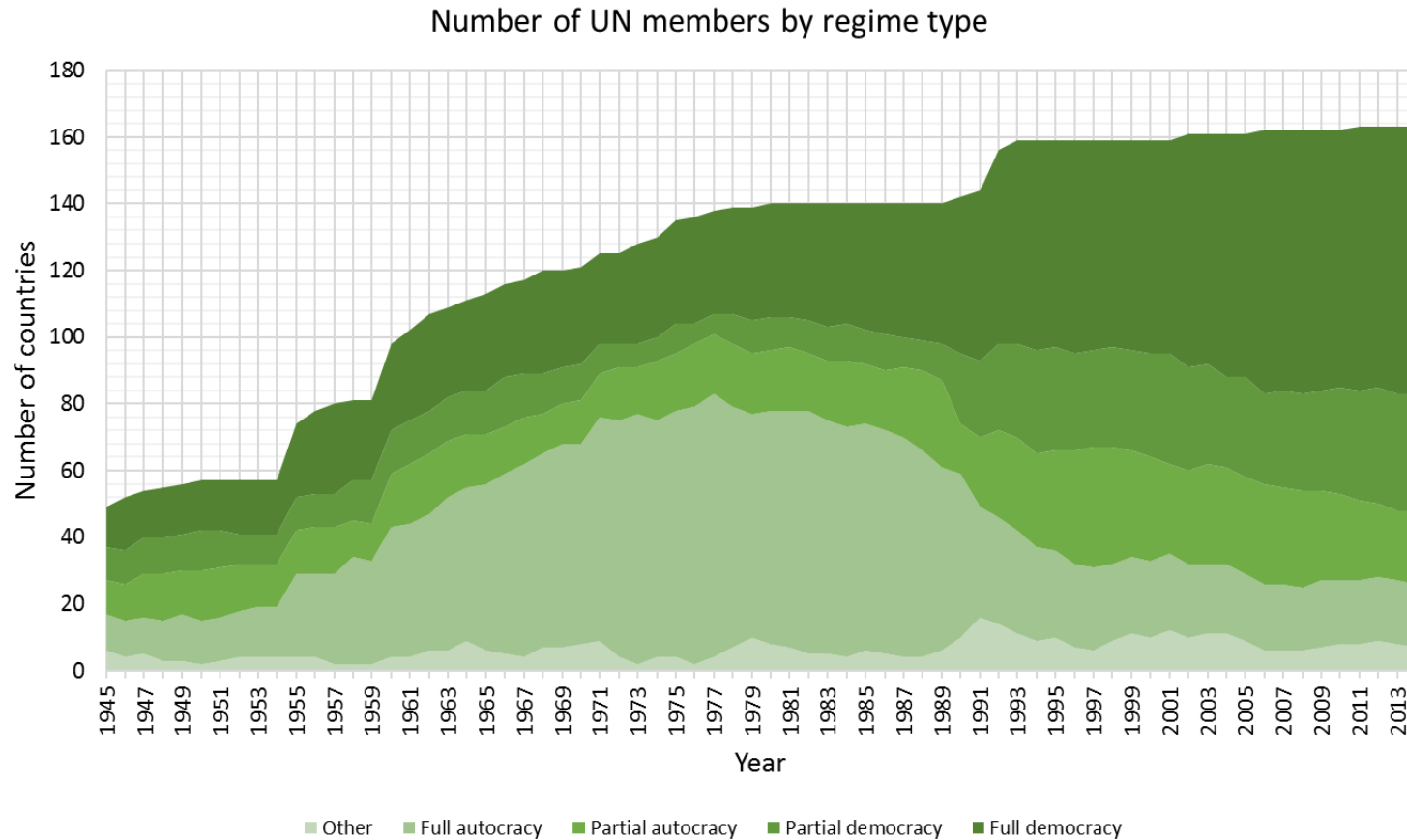


FIG. 1.—Human rights treaty ratification versus human rights practice over time. *% treaties ratified* measures the percentage of available international human rights treaties the average state has ratified in a given year. The data on ratification are described in detail in the section on data. *% repressive* measures the percentage of states reported to repress human rights in a given year. We identify a repressor as any state that has scored a value of 1, 2, or 3 on our standards-based measure of repression, fully described in the section on data.

# Historic trends in IHR commitments



# Changes in international regime



# **Why do states make IHR commitments?**

Why do I ask?

(How do IHR commitments differ from other treaties?)

**How to weaken a HR commitment?**

Dilemma: inclusion or compliance?



# Global HR regime (UN)

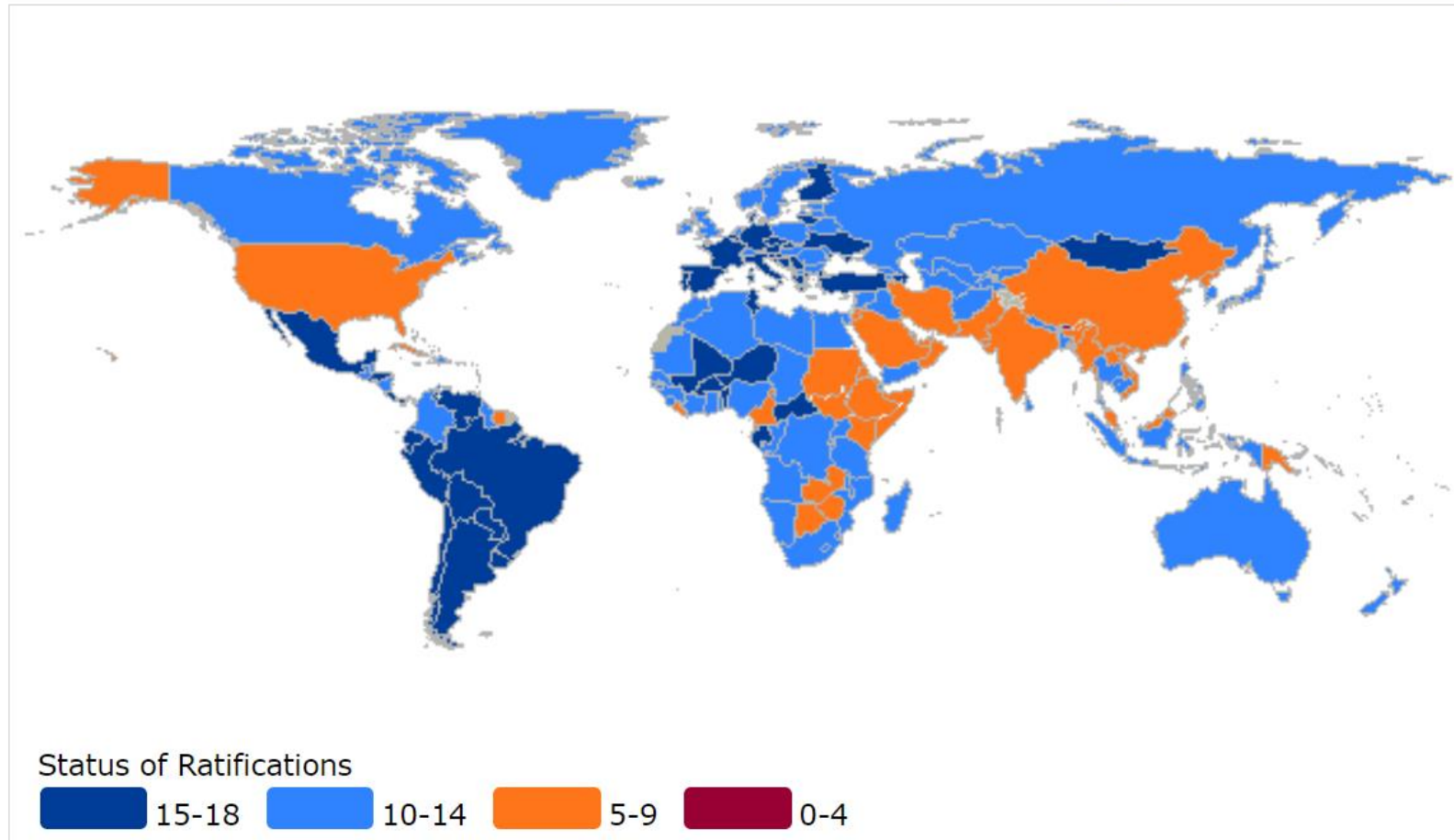
Source: <https://www.ohchr.org/en/>

There are 9 core international human rights instruments. Each of these instruments has established a committee of experts to monitor implementation of the treaty provisions by its States parties. Some of the treaties are supplemented by optional protocols dealing with specific concerns whereas the Optional Protocol to the Convention against Torture establishes a committee of experts.

		<i>Date</i>	<i>Monitoring Body</i>
ICERD	International Convention on the Elimination of All Forms of Racial Discrimination	21 Dec 1965	CERD
ICCPR	International Covenant on Civil and Political Rights	16 Dec 1966	CCPR
ICESCR	International Covenant on Economic, Social and Cultural Rights	16 Dec 1966	CESCR
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women	18 Dec 1979	CEDAW
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	10 Dec 1984	CAT
CRC	Convention on the Rights of the Child	20 Nov 1989	CRC
ICMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families	18 Dec 1990	CMW
CPED	International Convention for the Protection of All Persons from Enforced Disappearance	20 Dec 2006	CED
CRPD	Convention on the Rights of Persons with Disabilities	13 Dec 2006	CRPD
ICESCR - OP	Optional Protocol to the Covenant on Economic, Social and Cultural Rights	10 Dec 2008	CESCR
ICCPR-OP1	Optional Protocol to the International Covenant on Civil and Political Rights	16 Dec 1966	CCPR
ICCPR-OP2	Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty	15 Dec 1989	CCPR
OP-CEDAW	Optional Protocol to the Convention on the Elimination of Discrimination against Women	10 Dec 1999	CEDAW
OP-CRC-AC	Optional protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict	25 May 2000	CRC
OP-CRC-SC	Optional protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography	25 May 2000	CRC
OP-CRC-IC	Optional Protocol to the Convention on the Rights of the Child on a communications procedure	14 Apr 2014	CRC
OP-CAT	Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	18 Dec 2002	SPT
OP-CRPD	Optional Protocol to the Convention on the Rights of Persons with Disabilities	12 Dec 2006	CRPD

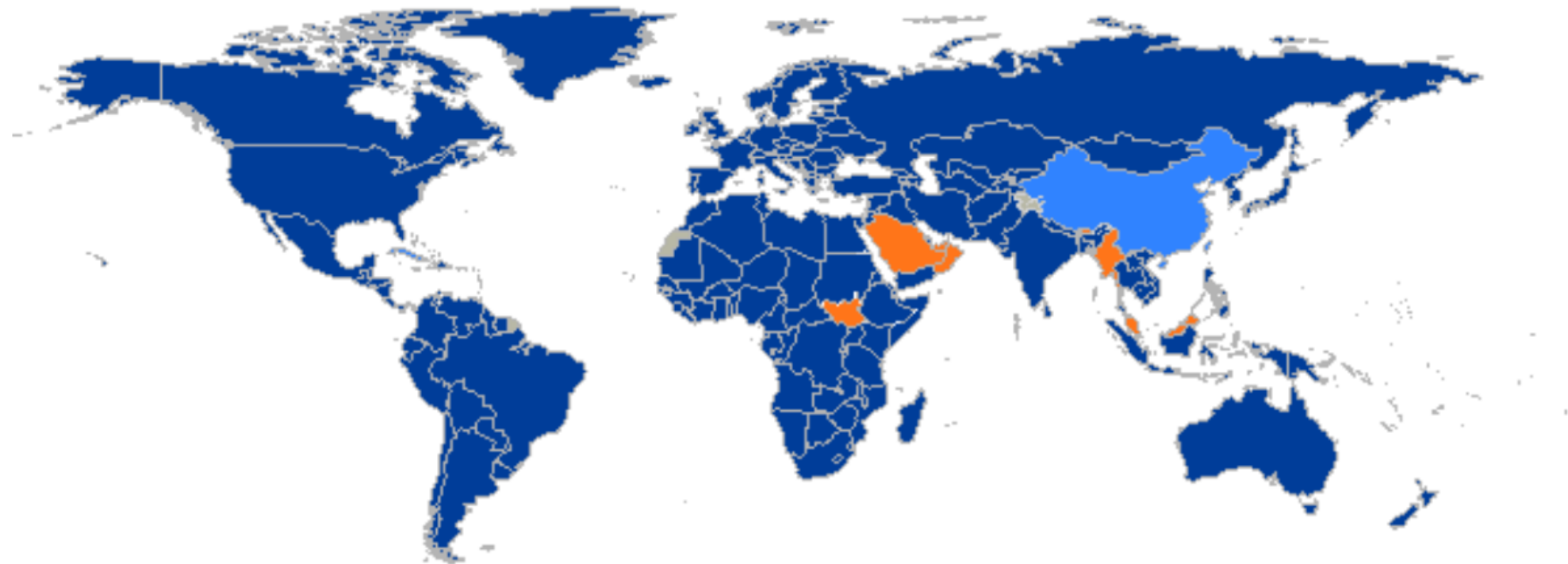
# Global HR regime (UN)

Ratification of 18 International Human Rights Treaties



# Global HR regime (UN)

## International Covenant on Civil and Political Rights



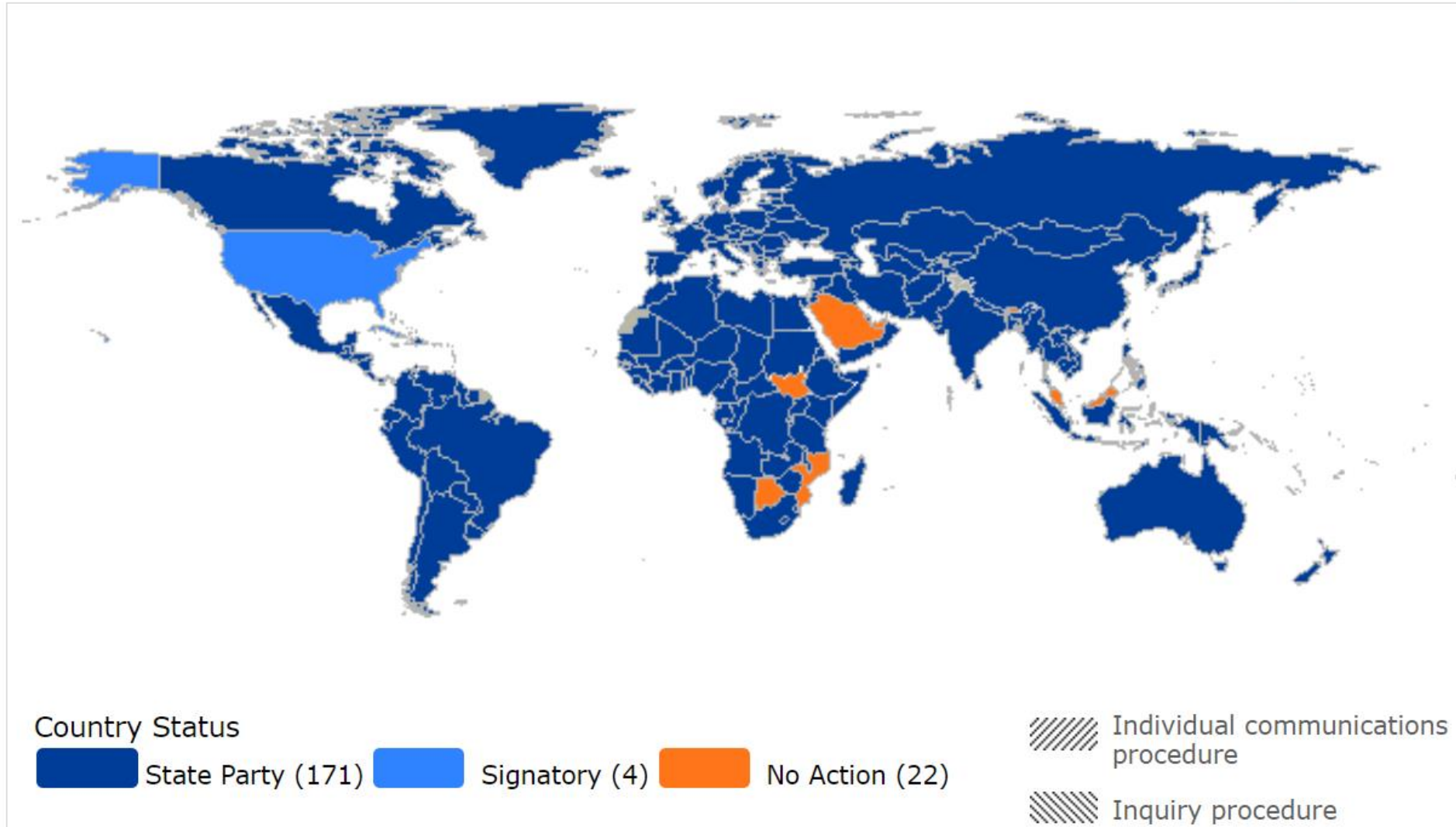
Country Status

State Party (173) Signatory (6) No Action (18)

Individual communications procedure

# Global HR regime (UN)

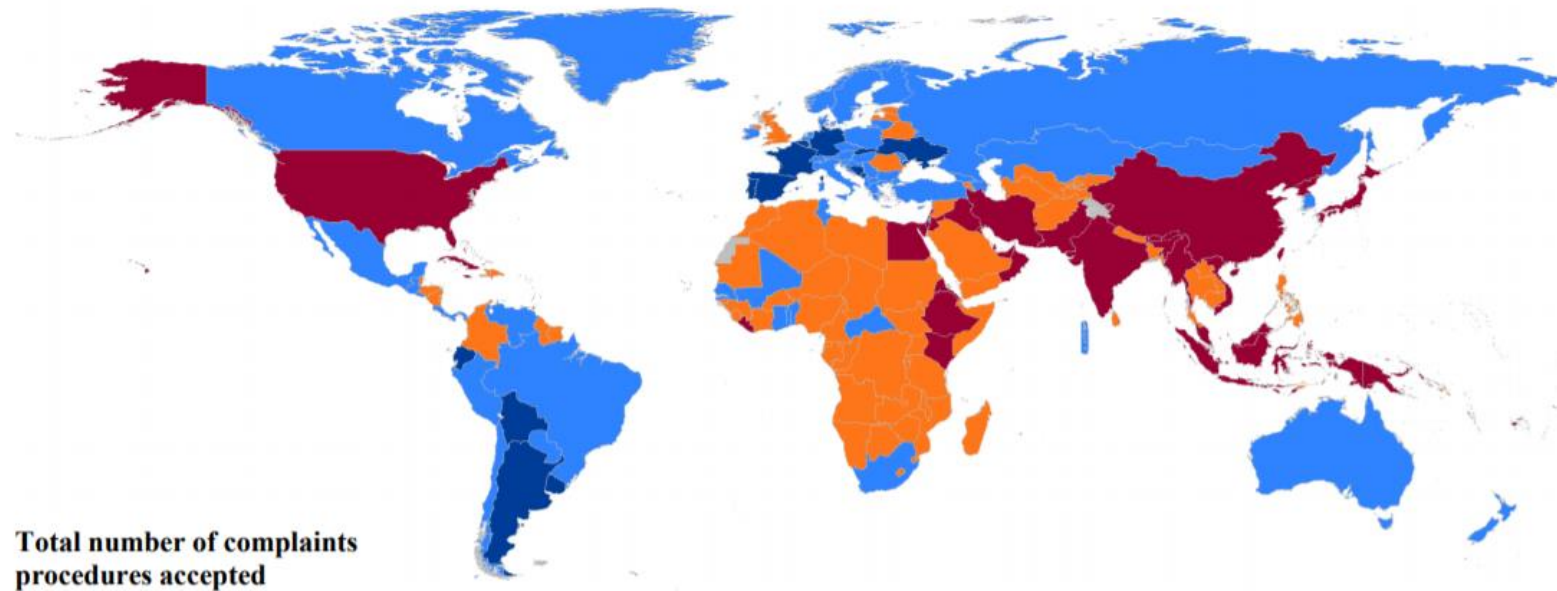
## International Covenant on Economic, Social and Cultural Rights



# Global HR regime (UN)



Acceptance of 9 Individual Complaints Procedures  
Last Updated: 31 December 2019



Total number of complaints procedures accepted

7-9 4-6 1-3 0

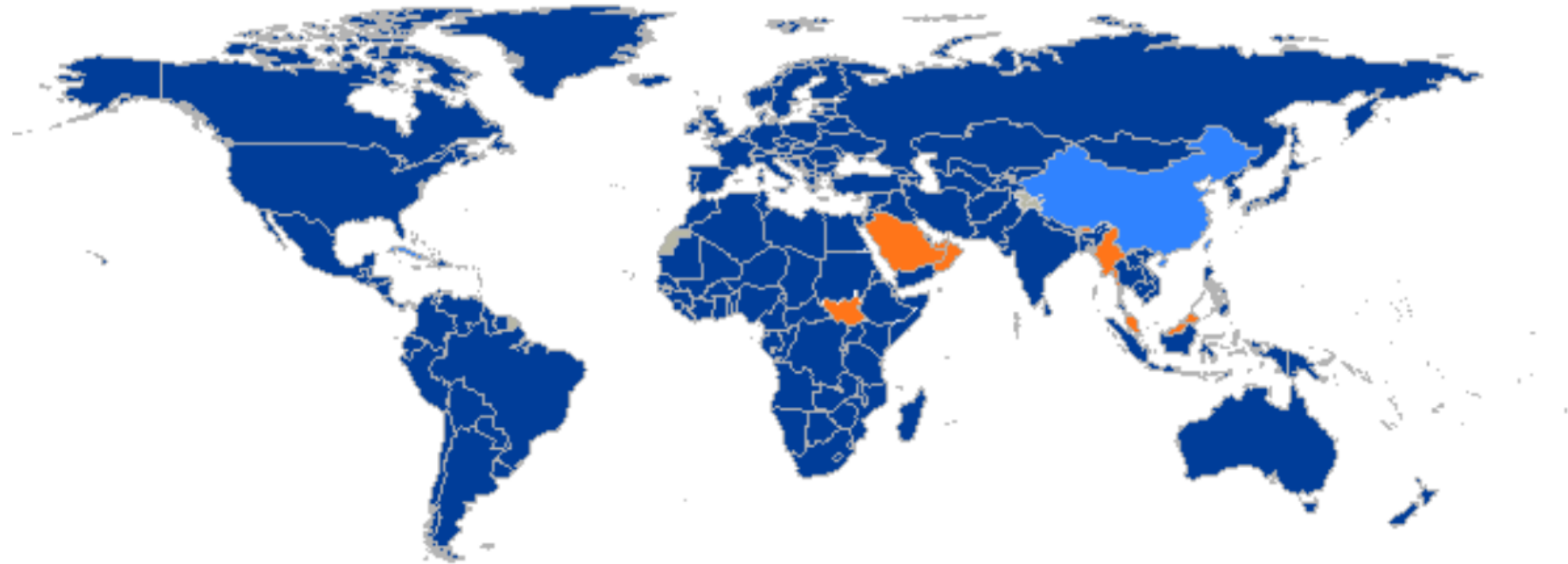
Definition and meta-data: <http://www.ohchr.org/Documents/Issues/HRIndicators/MetadataIndividualCommunications.pdf>  
Source: Database of the United Nations Office of the High Commissioner for Human Rights, [Treaty Bodies Database](https://treaties.un.org), December 2019  
For application of treaties to overseas, non-self-governing and other territories, shown here in grey, see <https://treaties.un.org>



# Global HR regime (UN)

## International Covenant on Civil and Political Rights

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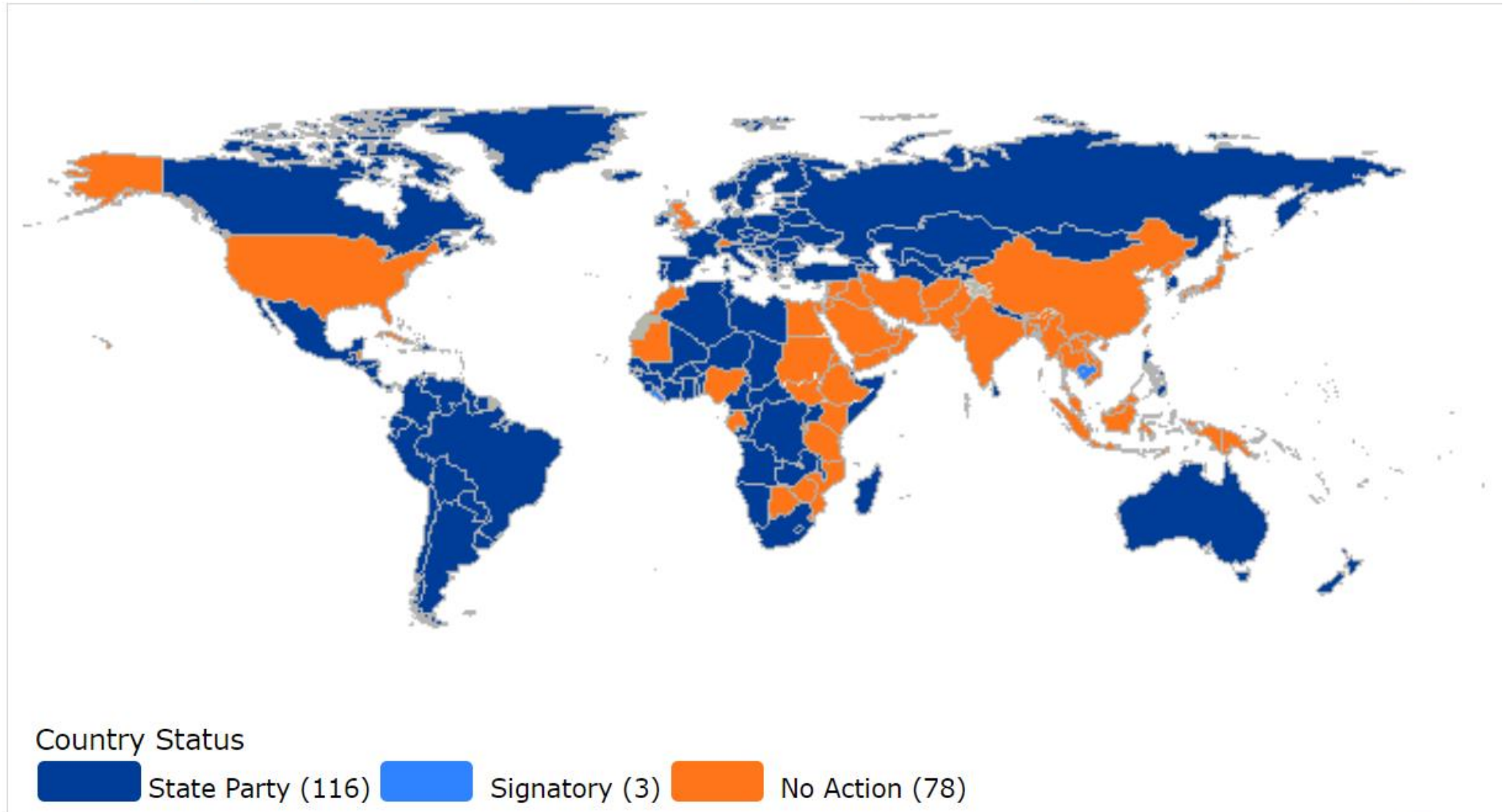
Country Status

■ State Party (173) ■ Signatory (6) ■ No Action (18)

▨ Individual communications procedure

# Global HR regime (UN)

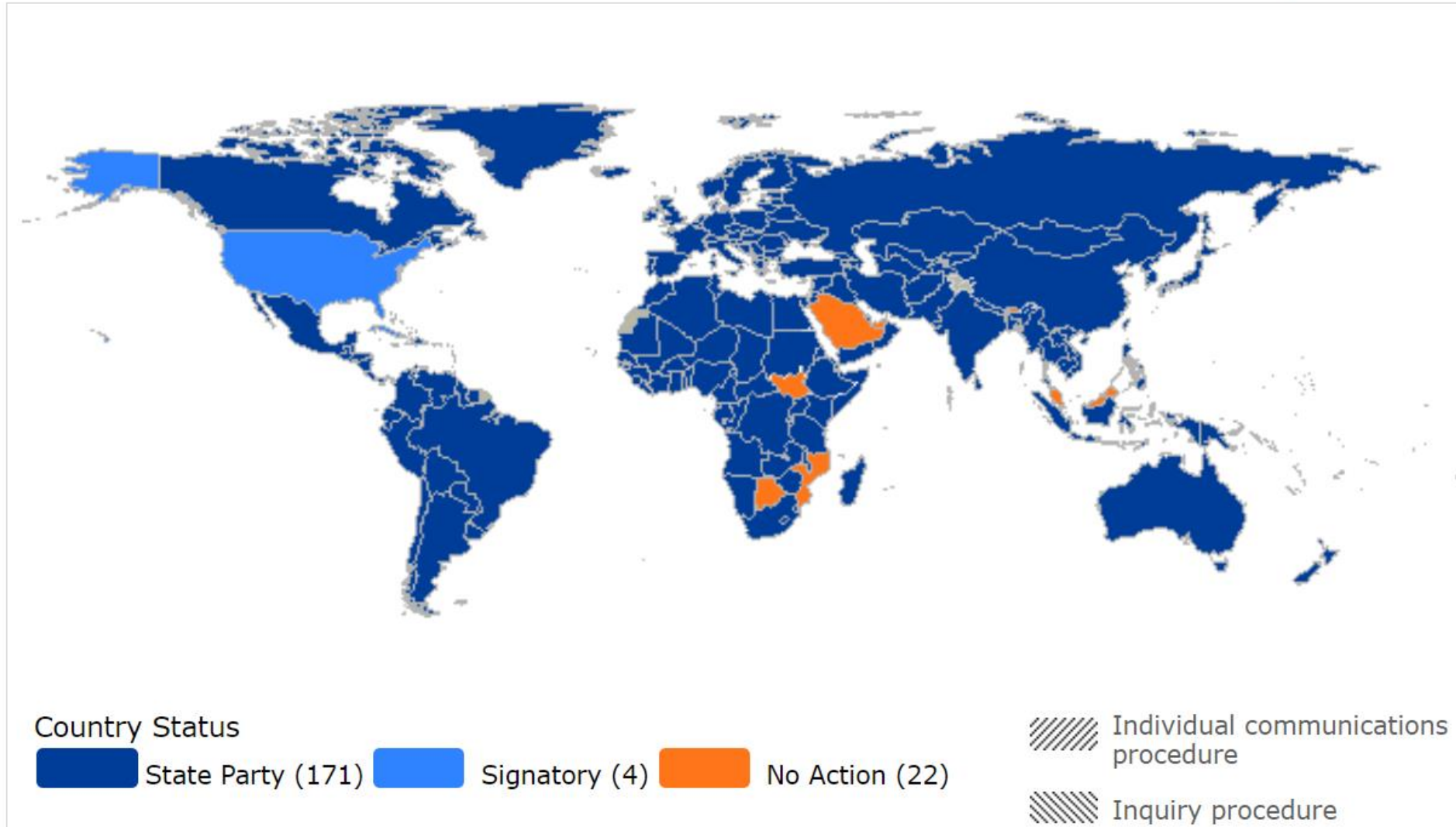
Optional Protocol to the International Covenant on Civil and Political Rights





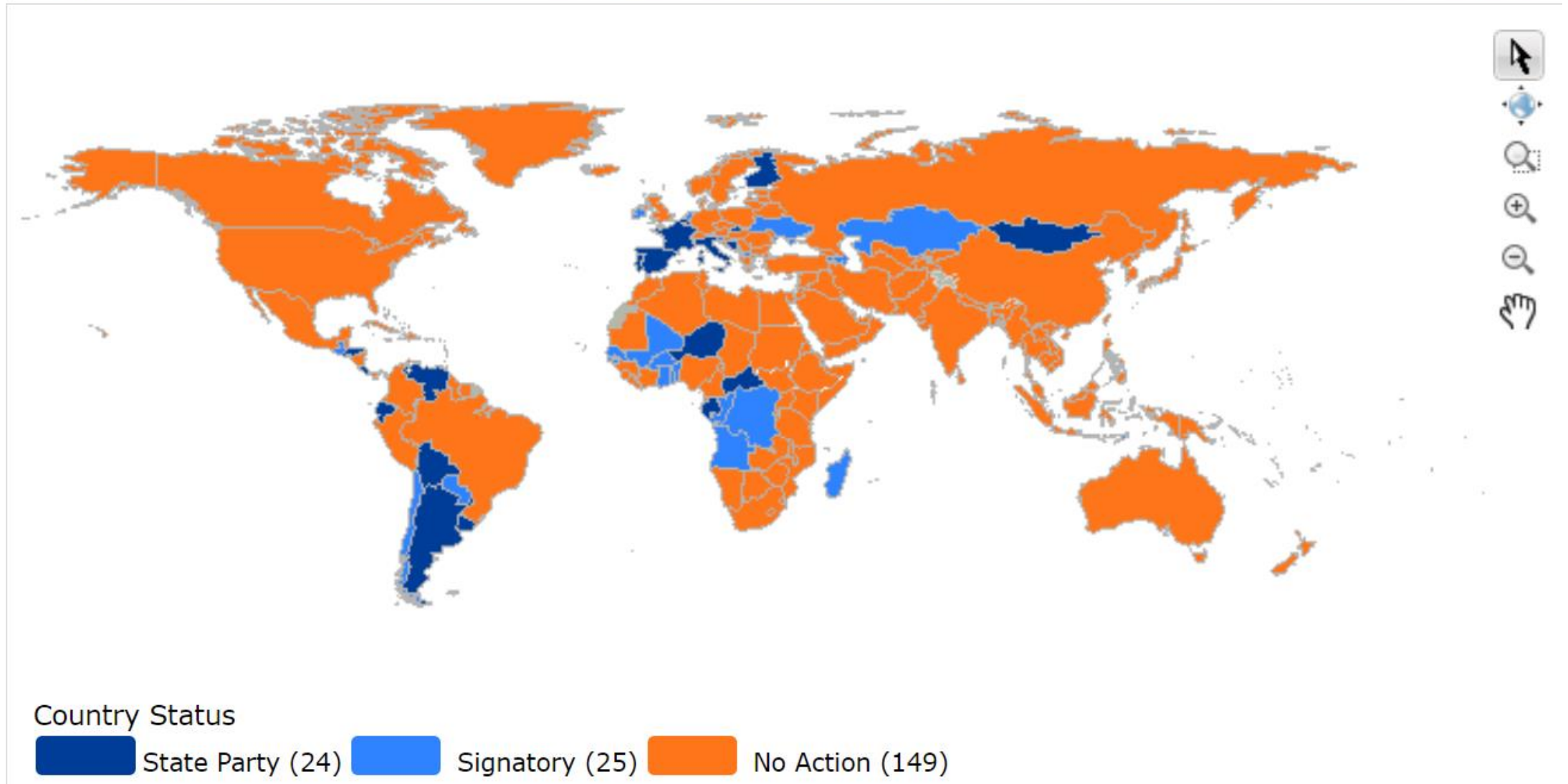
# Global HR regime (UN)

## International Covenant on Economic, Social and Cultural Rights



# Global HR regime (UN)

Optional Protocol to the International Covenant on Economic, Social and Cultural Rights



# Czechia in UN HR regime

## Ratification Status for Czech Republic

Treaty	Signature Date	Ratification Date, Accession(a), Succession(d) Date
CAT - Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment		22 Feb 1993 (d)
CAT-OP - Optional Protocol of the Convention against Torture	13 Sep 2004	10 Jul 2006
CCPR - International Covenant on Civil and Political Rights		22 Feb 1993 (d)
CCPR-OP2-DP - Second Optional Protocol to the International Covenant on Civil and Political Rights aiming to the abolition of the death penalty		15 Jun 2004 (a)
CED - Convention for the Protection of All Persons from Enforced Disappearance	19 Dec 2016	08 Feb 2017
CED, Art.32 - Interstate communication procedure under the International Convention for the Protection of All Persons from Enforced Disappearance		
CEDAW - Convention on the Elimination of All Forms of Discrimination against Women		22 Feb 1993 (d)
CERD - International Convention on the Elimination of All Forms of Racial Discrimination		22 Feb 1993 (d)
CESCR - International Covenant on Economic, Social and Cultural Rights		22 Feb 1993 (d)
CMW - International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families		
CRC - Convention on the Rights of the Child		22 Feb 1993 (d)
CRC-OP-AC - Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict	06 Sep 2000	30 Nov 2001
CRC-OP-SC - Optional Protocol to the Convention on the Rights of the Child on the sale of children child prostitution and child pornography	26 Jan 2005	26 Aug 2013
CRPD - Convention on the Rights of Persons with Disabilities	30 Mar 2007	28 Sep 2009

# Czechia in UN HR regime

## Acceptance of individual complaints procedures for Czech Republic

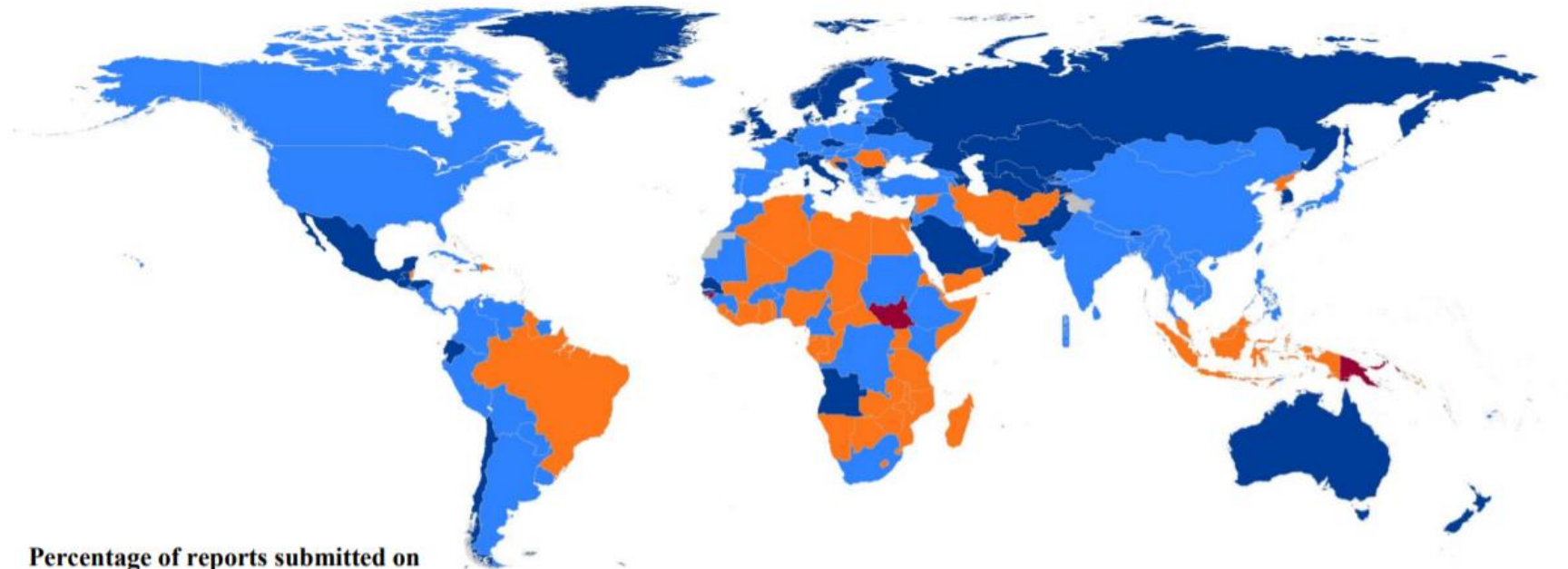
Treaty	Acceptance of individual complaints procedures	Date of acceptance/non acceptance
CAT, Art.22 - Individual complaints procedure under the Convention against Torture	YES	03 Sep 1996
CCPR-OP1 - Optional Protocol to the International Covenant on Civil and Political Rights	YES	22 Feb 1993
CED, Art.31 - Individual complaints procedure under the International Convention for the Protection of All Persons from Enforced Disappearance	YES	
CEDAW-OP - Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women	YES	26 Feb 2001
CERD, Art.14 - Individual complaints procedure under the International Convention on the Elimination of All Forms of Racial Discrimination	YES	11 Oct 2000
CESCR-OP - Optional protocol to the International Covenant on Economic, Social and Cultural Rights	NO	
CMW, Art.77 - Individual complaints procedure under the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families	-	
CRC-OP-IC - Optional Protocol to the Convention on the Rights of the Child	YES	02 Dec 2015
CRPD-OP - Optional protocol to the Convention on the Rights of Persons with Disabilities	NO	



# Global HR regime (UN)



Reporting compliance by State parties to the human rights treaty bodies  
Last Updated: 31 December 2019



Percentage of reports submitted on time

















































Definition and meta-data: <http://www.ohchr.org/Documents/Issues/HRIndicators/MetadataReportingCompliance.pdf>  
Source: Database of the United Nations Office of the High Commissioner for Human Rights, [Treaty Bodies Database](https://treaties.un.org), December 2019  
For application of treaties to overseas, non-self-governing and other territories, shown here in grey, see <https://treaties.un.org>

# UN HR Commission

Source:  
[https://commons.wikimedia.org/wiki/File:Eleanor\\_Roosevelt\\_UDHR\\_\(27758131387\).jpg](https://commons.wikimedia.org/wiki/File:Eleanor_Roosevelt_UDHR_(27758131387).jpg)



# UN HR Council

Term	African States (13)	Asia-Pacific States (14)	Eastern European States (5)	Latin American & Caribbean States (8)	Western European & Other States (7)
2021–2023 [19]	 Côte d'Ivoire  Gabon  Malawi  Senegal	 China  Nepal  Pakistan  Uzbekistan	 Russian Federation  Ukraine	 Bolivia  Cuba  Mexico	 France  United Kingdom
2020–2022 [20]	 Libya  Mauritania  Sudan  Namibia	 Armenia  Indonesia  Japan  Marshall Islands  Republic of Korea	 Poland	 Brazil  Venezuela	 Germany  Netherlands
2019–2021 [21]	 Burkina Faso  Cameroon  Eritrea  Somalia  Togo	 Bahrain  Bangladesh  Fiji  India  Philippines	 Bulgaria  Czech Republic	 Argentina  Bahamas  Uruguay	 Austria  Denmark  Italy